



DISABILITY AND COMMUNICATION ACCESS BOARD

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INTERPRETIVE OPINION

Pursuant to §103-50, Hawaii Revised Statutes (HRS), all buildings and facilities constructed by, or on behalf of the State or any county, shall conform to the 2004 Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG) and amendments. In accordance to HRS §103-50 and Chapter 11-217, Hawaii Administrative Rules, the Disability and Communication Access Board has authority to issue interpretive opinions to HRS §103-50 design standards.

Docket: DCAB 2011-18: Are group homes, apartment and townhouse facilities and crew quarters for emergency response personnel required to comply with ADAAG section 233 Residential Dwelling Units?

Summary: While the 1991 ADAAG described the types of facilities that are considered “transient lodging”, the 2004 ADAAG does not. The 1991 ADAAG required ‘social service center establishments’ to comply with the provisions for transient lodging. The revised Title II regulations require social service center establishments to now comply with the provisions for “residential dwelling units.” The explanation provided by the Department of Justice (DOJ) states:

“(T)he Department’s belief that transferring coverage of social service center establishments from the transient lodging standards to the residential facilities standards would alleviate conflicting requirements for social service center providers. The Department believes that a substantial percentage of social service center establishments are recipients of Federal financial assistance from the Department of Housing and Urban Development (HUD). . . . The Department believes, however, that social service center establishments that provide emergency shelter to large transient populations should be able to provide bathing facilities that are accessible to persons with mobility disabilities who need roll-in showers. Because of the transient nature of the population of these large shelters, it will not be feasible to modify bathing facilities in a timely manner when faced with a need to provide a roll-in shower with a seat when requested by an overnight visitor”

The Department of Justice’s Title II regulations provides clarification that crew quarters used as residences by emergency response personnel are covered by the residential dwelling standards. The Department of Justice (DOJ) has stated with regards to living spaces for emergency response personnel”

“The ADA does not exempt spaces because of a belief or policy that excludes persons with disabilities from certain work. However, the Department believes that crew quarters that are used exclusively as a residence by emergency response personnel and the kitchens and bathrooms exclusively serving those quarters are more like residential dwelling units and are therefore covered by the residential dwelling standards in the 2010 Standards, not the transient lodging standards..”

State and County Facilities subject to HRS §103-50 are enforced by the DOJ and must comply with their 2010 Standards and regulations addressing Title II.

Ruling: For buildings or facilities subject to HRS §103-50,

ADAAG Section 233 Residential Dwelling Units

Facilities covered by ADAAG section 233 Residential Dwelling Units include, but are not limited to the following:

- 1) Group homes, halfway houses, shelters, or similar social service center establishments that provide either temporary sleeping accommodations or residential dwelling units. These types of facilities shall comply with the following:
 - (i) In sleeping rooms with more than 25 beds, a minimum of 5% of the beds shall have clear floor space complying with section 806.2.3 of the 2010 Standards.
 - (ii) Facilities with more than 50 beds that provide common use bathing facilities shall provide at least one roll-in shower with a seat that complies with the relevant provisions of section 608. Transfer-type showers are not permitted in lieu of a roll-in shower with a seat, and the exceptions in sections 608.3 and 608.4 for residential dwelling units are not permitted. When separate shower facilities are provided for men and for women, at least one roll-in shower shall be provided for each group.
- 2) Apartments or townhouse facilities that are provided by or on behalf of a place of education, which are leased on a year-round basis exclusively to graduate students or faculty and do not contain any public use or common use areas available for educational programming.
- 3) Crew quarters that are used exclusively as a residence by emergency response personnel and the kitchens and bathrooms exclusively serving those quarters.

[Rul:01/03/2011] (Auth and Imp: HRS §103-50)

If you have any questions or comments regarding this ruling, please call us at 586-8121.

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